IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1423 OF 2005

Mr.Ramdeo Mali Ram
Jatia ..Applicant

Vs.

State of Maharashtra & Anr. ...Respondents

...

Mr. A.P.Mundergi i/b Mr.Rajendra
Sorankar Advocate for Applicant
Ms.S.V.Gajare A.P.P. for State
Mr.Ezaz Khan Spl. P.P. for Respondent no.2

...

CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JUNE 29,2005

P.C.

1. Heard the learned counsel for the applicant, learned A.P.P. for the State and learned counsel for the respondent no.2-CBI ACB.

2. The applicant is the sole accused in Special Case No. 7 of 1995 which is pending before the learned Special Court (CBI ACB) Mumbai. In the said case, after completion of investigation, the

charge sheet was filed in March, 1995. Charge came to be framed on 17.10.1997 in the said case and hearing in the matter commenced in July 2003 and till December, 2004 eight witnesses came to be examined. The last witness who was to be examined, was the Investigating Officer.

3. At that stage, various applications came to be made by respondent CBI for taking further documents on record and for further investigation in the case. It was their contention that appropriate steps were not taken during the investigation of the case to collect all required material and to record the statements of all the material witnesses. Hence, these applications came to be made. The learned Special Judge allowed the said applications. By order dated 21.12.2004 the learned Special Judge allowed CBI ACB to carry out further investigation as prayed in their application Exh.64 and to produce further investigation report as per the provisions of Section 173 (8) Cr.P.C. The said report was to be submitted within two months. Thereafter, extension of time came to be sought by CBI ACB which came to

be granted and time has been extended upto 1.7.2005.

4. It is these two orders which have been challenged by the applicant. The applicant is aged about 73 years of age. Charge sheet has been filed against him in March, 1995 i.e. more than ten years ago. It is stated that the trial in his case has been unnecessarily prolonged and hence, such applications for further investigation or for taking any further documents on record or for extension of time to complete the investigation ought not to be granted.

5. It is seen that time granted by the Court is upto 1.7.2005 i.e. the said time is going to expire within three days from today. The learned counsel for the CBI ACB stated that the investigation is over and they will submit their report on 1.7.2005. He has further stated that no fresh application shall be made for further investigation or for extension of period to investigate the matter. He has also stated that except for the documents which have been collected

in the further investigation of this case, no application will be made for taking any other fresh documents on record. The learned counsel for the applicant on instructions states that if no further time is sought for by CBI for further investigation or if no application is made by them as stated above, then at this stage, he does not wish to challenge the order dated 21.12.204 passed by the Special Judge or the order granting extension of the said order.

6. In the present case, it is an admitted fact that the applicant is aged about 73 years of age and the prosecution against him is pending for more than ten years. It is also admitted that almost all the witnesses have been examined, except the Investigating Officer. Looking to these facts and the fact that a fair chance has been given to the prosecution to further investigate the matter, further extension of time has also been granted to investigate, in my view, no fresh application for further investigation by the CBI ACB ought to be entertained by the Special Court. It is to be borne in mind that an effective trial for real or

actual offences found during course of proper investigation is as much relevant, desirable and necessary as an expeditious disposal of the matter by the Courts.

7. In the present case, CBI ACB has been given a fair chance to investigate and has even been granted extension of time for further investigation. Hence, looking to the facts and circumstances of the case and the age of the applicant, in my view no further application for further investigation ought to be entertained.

8. Application is disposed of.

[V.K.TAHILRAMANI,J.]